

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

| | | |
|---------------------------|---|----------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | No. 3:16-CR-11 |
| v. |) | |
| |) | |
| JEREMY PATRICK, |) | (PHILLIPS / SHIRLEY) |
| |) | |
| Defendant. |) | |

MEMORANDUM AND ORDER

All pretrial motions in this case have been referred to the undersigned pursuant to 28 U.S.C. § 636(b) for disposition or report and recommendation regarding disposition by the District Court as may be appropriate. This case is before the Court on the Defendant's Motion to Continue [Doc. 102], filed on August 29, 2016. The Defendant asks to continue the September 13 trial of this case in order to give defense counsel additional time to review discovery, investigate the case, resolve pretrial matters, and prepare for trial. The motion states that the right to a speedy trial has been fully explained to the Defendant and that he understands that all the time between the filing of the motion and the new trial date will be fully excludable under the Speedy Trial Act.

Counsel participated in a telephone conference on this motion on September 8, 2016. Assistant United States Attorney Cynthia F. Davidson appeared on behalf of the Government. Assistant Federal Defender Paula R. Voss represented the Defendant. AUSA Davidson said that the Government did not oppose the requested continuance. She confirmed that all other codefendants in this case have entered into plea agreements and will not be

proceeding to trial. Ms. Voss stated that the Defendant was not seeking to extend the motion deadline. The Court informed the parties that if any additional motions were sought, other than motions *in limine* or motions affecting scheduling, that counsel would need to file a motion for leave to file the motion out of time. Counsel agreed on a new trial date of February 7, 2017.

The Court finds the Defendant's motion to continue the trial to be well-taken and that the ends of justice served by granting a continuance outweigh the interest of the Defendant and the public in a speedy trial. 18 U.S.C. § 3161(h)(7)(A). The Court observes that the Defendant is charged [Doc. 1], along with five codefendants, with conspiring to distribute fifty grams of methamphetamine (Count One), two counts of distributing methamphetamine (Counts Two and Four), and possession of a firearm in furtherance of a drug trafficking crime (Count Three). The Court finds that defense counsel needs additional time to review discovery, investigate the case, confer with the Defendant, and prepare for trial. The Court finds that these pretrial preparations cannot be completed before the September 13 trial date or in less than six months. Accordingly, without a continuance, defense counsel would not have the reasonable time necessary to prepare for trial despite her use of due diligence. See 18 U.S.C. § 3161(h)(7)(B)(iv).

The Defendant's Motion to Continue [**Doc. 102**] is **GRANTED**, and the trial is reset to **February 7, 2017**. The Court also finds that all the time between the filing of the motion on **August 29, 2016**, and the new trial date of **February 7, 2017**, is fully excludable time under the Speedy Trial Act for the reasons set forth herein. See 18 U.S.C. § 3161(h)(1)(D) & - (7). With regard to additional scheduling in this case, the deadline for concluding plea negotiations is **January 9, 2017**. This day is also the deadline for the Defendant to provide reciprocal discovery. The Court instructs the parties that all motions *in limine* must be filed no

later than **January 23, 2017**. Special requests for jury instructions shall be submitted to the District Court no later than **January 27, 2017**, and shall be supported by citations to authority pursuant to Local Rule 7.4.

Accordingly, it is **ORDERED**:

(1) The Defendant's Motion to Continue [**Doc. 102**] is **GRANTED**;

(2) The trial of this matter is reset to commence on **February 7, 2017, at 9:00 a.m.**, before the Honorable Thomas W. Phillips, United States District Judge;

(3) All time between the filing of the Defendant's motion on **August 29, 2016**, and the new trial date of **February 7, 2017**, is fully excludable time under the Speedy Trial Act for the reasons set forth herein;

(4) The deadline for concluding plea negotiations is **January 9, 2017**. This date is also the deadline for the provision of reciprocal discovery;

(5) Motions *in limine* must be filed no later than **January 23, 2017**; and

(6) Special requests for jury instructions with appropriate citations shall be submitted to the District Court by **January 27, 2017**.

IT IS SO ORDERED.

ENTER:

s/ C. Clifford Shirley, Jr.
United States Magistrate Judge